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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
09/975,386	10/11/2001	Kenneth David Knapp	24-01	1255

7590 03/26/2003

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EXAMINER

TRAN A, PHI DIEU N

ART UNIT	PAPER NUMBER
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3637

DATE MAILED: 03/26/2003

Please find below and/or attached an Office communication concerning this application or proceeding.

Office Action Summary

Application No.

09/975,386

Applicant(s)

KNAPP, KENNETH DAVID

Examiner

Phi D A

Art Unit

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-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If the period for reply specified above is less than thirty (30) days, a reply within the statutory minimum of thirty (30) days will be considered timely.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133).
- Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

Status

- 1) ☒ Responsive to communication(s) filed on 11 October 2001.
- 2a) ☐ This action is **FINAL**. 2b) ☒ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

Disposition of Claims

- 4) ☒ Claim(s) 1-9 is/are pending in the application.
- 4a) Of the above claim(s) _____ is/are withdrawn from consideration.
- 5) ☐ Claim(s) _____ is/are allowed.
- 6) ☒ Claim(s) 1-9 is/are rejected.
- 7) ☐ Claim(s) _____ is/are objected to.
- 8) ☐ Claim(s) _____ are subject to restriction and/or election requirement.

Application Papers

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☐ The drawing(s) filed on _____ is/are: a) ☐ accepted or b) ☐ objected to by the Examiner.
- Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).
- 11) ☐ The proposed drawing correction filed on _____ is: a) ☐ approved b) ☐ disapproved by the Examiner.
- If approved, corrected drawings are required in reply to this Office action.
- 12) ☐ The oath or declaration is objected to by the Examiner.

Priority under 35 U.S.C. §§ 119 and 120

- 13) ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☐ All b) ☐ Some * c) ☐ None of:
1. ☐ Certified copies of the priority documents have been received.
2. ☐ Certified copies of the priority documents have been received in Application No. _____.
3. ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).
- * See the attached detailed Office action for a list of the certified copies not received.
- 14) ☐ Acknowledgment is made of a claim for domestic priority under 35 U.S.C. § 119(e) (to a provisional application).
- a) ☐ The translation of the foreign language provisional application has been received.
- 15) ☐ Acknowledgment is made of a claim for domestic priority under 35 U.S.C. §§ 120 and/or 121.

Attachment(s)

- 1) ☒ Notice of References Cited (PTO-892)
- 2) ☒ Notice of Draftsperson's Patent Drawing Review (PTO-948)
- 3) ☒ Information Disclosure Statement(s) (PTO-1449) Paper No(s) 2.
- 4) ☐ Interview Summary (PTO-413) Paper No(s). _____.
- 5) ☐ Notice of Informal Patent Application (PTO-152)
- 6) ☐ Other: _____.

Claim Rejections - 35 USC § 112

1. The following is a quotation of the second paragraph of 35 U.S.C. 112:

The specification shall conclude with one or more claims particularly pointing out and distinctly claiming the subject matter which the applicant regards as his invention.

2. Regarding claims 1-7, the phrase "or the like" renders the claim(s) indefinite because the claim(s) include(s) elements not actually disclosed (those encompassed by "or the like"), thereby rendering the scope of the claim(s) unascertainable. See MPEP § 2173.05(d).

Claim 1 line 2 "or like" is indefinite as it renders the scope of the claims unascertainable.

3. Claim 1 is rejected under 35 U.S.C. 112, second paragraph, as being indefinite for failing to particularly point out and distinctly claim the subject matter which applicant regards as the invention.

Line 6 "on a second surface" is indefinite. It needs be "on the second surface".

Claim Rejections - 35 USC § 102

4. The following is a quotation of the appropriate paragraphs of 35 U.S.C. 102 that form the basis for the rejections under this section made in this Office action:

A person shall be entitled to a patent unless –

(b) the invention was patented or described in a printed publication in this or a foreign country or in public use or on sale in this country, more than one year prior to the date of application for patent in the United States.

5. Claims 1, 4, 8 are rejected under 35 U.S.C. 102(b) as being anticipated by Buttress et al (1568314).

Buttress et al shows a blanket of fibrous building insulation having a fibrous insulation layer (6) having opposite first and second surfaces between side surfaces that are spaced apart a given dimension, a facing sheet (7) having inner (the side not facing the layer) and outer surfaces

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(the side facing the layer), with the outer surface thereof disposed on the second surface of the insulation layer (the claim does not require the surface being directly disposed on the insulation layer, this interpretation being consistent with applicant's invention having the adhesive layer between the layer and the sheet), an adhesive layer (5) disposed between and securing the outer surface of the facing sheet to the second surface of the insulation layer, a grid of perforations (14) through the facing sheet, spots of adhesive visible ((col 4 line 75-77) through the perforations on the inner surface of the facing sheet (7), a grid of perforations comprising means (the alignment of the perforations) defining generally straight predetermined cut lines (inherently capable of doing so, figure 1 also shows sheet being cut along the perforations) for cutting the facing sheet and insulation in accordance with a pattern defined by at least some of the spots of adhesive, the blanket of insulation may be readily be cut along a line of said spots (figure 1, the side shows cutting along the perforation line) of adhesive to accommodate spaces between spaced apart structural members of lesser spacing than said given dimension, the grid of perforations being of rectangular, intersecting horizontal and vertical lines of spaced apart perforations (figure 1), the grid of perforations having at least three vertical, generally parallel spaced apart cut lines (figure 1), the grid of perforations having horizontal generally parallel spaced apart cut lines (figure 1).

Per claim 8, Buttress et al (figures 1, 3) shows all the method steps.

Claim Rejections - 35 USC § 103

6. The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

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(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negated by the manner in which the invention was made.

7. Claims 2 are rejected under 35 U.S.C. 103(a) as being unpatentable over Buttress et al in view of applicant's disclosure page 1 first paragraph last line.

Buttress et al shows all the claimed limitations except for the insulation layer being of

fiberglass construction.

modification of the invention

Applicant's disclosure teaches fiberglass insulation layer being well known in the art for forming insulation blanket.

It would have been obvious to one having ordinary skill in the art at the time of the invention to modify Buttress et al to show the insulation layer being of fiberglass construction because fiberglass is a well known material for forming insulation blanket as taught by Applicant's disclosure.

8. Claim 3 is rejected under 35 U.S.C. 103(a) as being unpatentable over Buttress et al in view of Long (1902872).

Buttress et al shows all the claimed limitations except for the adhesive being asphalt.

Buttress et al discloses the adhesive being gypsum mixed with sawdust or any other suitable binder.

Long discloses a binder being of asphalt (col 1 lines 29-34) for holding sheets together.

It would have been obvious to one having ordinary skill in the art at the time of the invention modify Buttress et al to show the adhesive being asphalt because asphalt would enable the holding of the layers together as taught by Long.

9. Claims 5-7 are rejected under 35 U.S.C. 103(a) as being unpatentable over Buttress et al.

Buttress et al shows all the claimed limitations except for the grid of perforation having cut lines being approximately 3 inches apart between side surfaces of the insulation layer, the grid of perforations having cut lines approximately 3.75 inch apart between side surfaces of the insulation layer, the grid of perforations having horizontal cut lines approximately 1.5 inch apart.

Buttress et al discloses the perforations being 0.5 inches apart.

It would have been an obvious matter of design choice to show the grid of perforation having cut lines being approximately 3 inches apart between side surfaces of the insulation layer, the grid of perforations having cut lines approximately 3.75 inch apart between side surfaces of the insulation layer, the grid of perforations having horizontal cut lines approximately 1.5 inch apart, since applicant has not disclosed that the larger spacing dimensions solves any stated problem or is for any particular purpose and it appears that the invention would perform equally well with the perforations being 0.5inch apart.

10. Claim 9 is rejected under 35 U.S.C. 103(a) as being unpatentable over Buttress et al in view of Ryan (649363).

Buttress et al shows all the claimed method steps except for the step of fastening a portion of the cut blanket of fibrous building insulation in the predetermined spacing between structure members.

Ryan (figure 1) shows the step of fastening a portion of the cut blanket of fibrous building insulation in the predetermined spacing between structure members.

It would have been obvious to one having ordinary skill in the art at the time of the invention to modify Buttress et al to show the step of fastening a portion of the cut blanket of fibrous building insulation in the predetermined spacing between structure member because the

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step would allow the insulation blanket to cover the spacing between structure members as taught by Ryan.

Conclusion

The prior art made of record and not relied upon is considered pertinent to applicant's disclosure. The prior art shows different composition board designs.

Any inquiry concerning this communication or earlier communications from the examiner should be directed to Phi D A whose telephone number is 703-306-9136. The examiner can normally be reached on Monday-Thursday.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Lanna Mai can be reached on 703-308-2486. The fax phone numbers for the organization where this application or proceeding is assigned are 703-872-9326 for regular communications and 703-872-9327 for After Final communications.

Any inquiry of a general nature or relating to the status of this application or proceeding should be directed to the receptionist whose telephone number is 703-308-1113.

A handwritten signature in black ink, appearing to read 'Phi Dieu Tran A', with a large, stylized loop at the end.

Phi Dieu Tran A
March 13, 2003